



July 6, 2005

Docket No. 05-015-1
Regulatory Analysis and Development
PPD, APHIS
Station 3C71
4700 River Road Unit 118
Riverdale, MD 20737-1238

**Re: Docket No. 05-015-1 – National Animal Identification System;
Notice of Availability of a Draft Strategic Plan and Draft Program
Standards**

Dear Sir/Madam:

The American Meat Institute (AMI or the Institute) submits the following comments regarding the above-referenced notice. AMI represents the interests of packers and processors of beef, pork, lamb, veal and turkey products and their suppliers throughout North America. Together, AMI's members produce 95 percent of the beef, pork, lamb, and veal products and 70 percent of the turkey products in the United States. The Institute provides legislative, regulatory, public relations, technical, scientific, and educational services to the meat and poultry packing and processing industry.

Some of AMI's members are the country's largest purchasers of livestock and the many of the benefits that would flow from a mandatory, national animal identification and traceback system (AITS) would assist AMI members and their customers. AMI supports development and expedited implementation of a mandatory national AITS. The reasons for that position are presented below.

General Discussion

The Secretary of Agriculture has the statutory authority and responsibility to establish an AITS. Specifically, the Animal Health Protection Act (AHPA) provides that, “[T]he Secretary may carry out operations and measures to detect, control, or eradicate any pest or disease of livestock (including the drawing of blood and diagnostic testing of animals), including animals at a slaughterhouse, stockyard, or other point of concentration.”¹ In addition, the AHPA permits the Secretary to promulgate regulations and issue orders necessary to carry out the law.²

Livestock identification, in large animal production, has been practiced in the United States since the 19th century. The Animal and Plant Health Inspection Service (APHIS or the agency) and its predecessor agencies have, for example, used ear tags, back tags, tattoos, and face brands for that task. These identification methods were established by regulation and have been successfully used to trace the movements of diseased animals during disease outbreaks, and as part of disease eradication programs. Current livestock identification methods include, but are not limited to, ear tags, back tags, neck chains, tail tags, freeze brands, tattoos, paint marks, and leg bands. Electronic identification methods, *e.g.*, bar codes or radio frequency identification (RFID) transponders, are becoming increasingly useful tools in management programs. As these and other technologies develop and become compatible with one another, they may prove to be cost-effective tools to increase production efficiency.

The need for an AITS has been a source of continuous and intense discussion within animal agriculture. Many considerations, *e.g.*, cost, concerns about liability, and information confidentiality, have thwarted the development of a national AITS. The impetus behind developing livestock identification systems are industry and government needs pertaining to disease control and eradication, disease surveillance and monitoring, the ability to respond to foreign animal diseases, trade, livestock production efficiency, consumer concerns regarding food safety, and emergency management programs. In that regard, biosecurity concerns, coupled with Bovine Spongiform Encephalopathy (BSE), and the potential for outbreaks of Foot and Mouth Disease (FMD) and Classical Swine Fever and other animal diseases, demonstrate the compelling need to develop and implement a national AITS that will allow industry and the government to manage effectively animal disease outbreaks.

¹ 7 U.S.C. § 8308.

² 7 U.S.C. § 8315.

AITS Must be Mandatory

The agency asks in the Notice whether an AITS should be mandatory. The answer is a resounding yes. Government and industry needs are such that a mandatory animal identification program, applicable to all livestock species, should be established and implemented as soon as possible. This conclusion is capably demonstrated by the positive test results for BSE in cattle in Canada and Washington state. These cases, as well as concerns regarding biosecurity and other animal diseases, provide sufficient reasons for APHIS to implement expeditiously an AITS. The agency's earlier conclusion that, for some unspecified time, an AITS should be voluntary should be reconsidered. Rather, APHIS should establish an AITS that will provide producers, food processors, federal and state governments, and consumers with confidence that, in the event it becomes necessary, the location and origin of an animal can be determined quickly and efficiently.

The challenges and problems presented with respect to animal disease control are no less onerous and no less pressing if the persons or entities that are part of the livestock distribution system are allowed to participate in a voluntary AITS. The reasoning underlying the conclusion that an AITS should be mandatory is simple – a voluntary system leaves the livestock, and subsequently the food processing sector, vulnerable in the event a serious issue arises with respect to an animal or animals not “participating” in the program. Posing such risks is unwarranted and inappropriate.

A mandatory program is essential given the potential damage that could occur if rapid traceback was not possible during an animal disease outbreak. Moreover, the burdens that, at least conceptually have been articulated about a mandatory system, *e.g.*, the perceived threat of liability and information confidentiality, pale in comparison to the risks the entire animal agriculture system faces in the absence of a mandatory system. In that regard, a mandatory AITS will:

- help industry and government with disease control and eradication;
- enhance disease surveillance and monitoring;
- improve the government's and the industry's abilities to respond to foreign animal diseases;
- improve livestock production efficiency; and
- address consumer concerns regarding food safety.

Indeed, biosecurity concerns, coupled with concerns about BSE, FMD, and Classical Swine Fever, and other animal diseases, demonstrate the need to develop and implement an AITS that will allow industry and the government to manage effectively threats to animal health and animal disease outbreaks.

In addition to benefiting animal health, development of a mandatory AITS will assist the United States in international trade. The United States has lagged behind other countries regarding animal identification, to its detriment with respect to trade. Enhancing the livestock industry's ability to identify and trace animals will benefit livestock producers and animal agriculture generally by giving our trading partners greater confidence that actions can be taken swiftly and effectively in the event of an animal disease outbreak.

Any Program Should Require that an Animal be Identified before it is Permitted to Leave its Birthplace and Continue to be Identified at Every Location Thereafter

The Notice also asks who should bear the responsibility for identifying animals and how compliance should be ensured. In that regard, APHIS should promulgate regulations providing that livestock may not be transported from one location to another unless the livestock can be identified and subsequently traced back, as necessary, using a means

approved by APHIS. That information should include (1) place and time of birth and (2) every location the livestock has been held previously. Moreover, the system should provide that the person who owns the livestock is responsible for ensuring this information is available at the time of livestock movement.³

The Timeline for Implementation of an AITS Should be Expedited

The draft strategic plan sets forth a timeline that, if met, would have in place a program with reporting of defined animal movements required by January 2009. AMI recognizes the significant challenges inherent in implementing such a system. Notwithstanding those challenges, the threats presented by animal disease will not wait for the government and industry to act. In that regard, the draft strategic plan suggests that the agency will not be able to publish a proposed rule before July 2006, which seems lengthy given the importance of the issue. Similarly, the approximately 15-16 month period identified from rule proposal in July 2006 to publication of a final rule in the Fall 2007 should be shortened.

Information Collected Through an AITS Should be Kept Confidential

To help enhance and promote compliance with the requirements of an AITS system the program should ensure that information collected through such a system is kept confidential and not disclosed through the Freedom of Information Act (FOIA) or other avenues. In that regard, much of the information could be viewed as confidential commercial information under FOIA. In the alternative, APHIS should support legislative solutions to ensure information provided to the agency through an AITS is deemed confidential and not to be released to the public.

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AMI appreciates this opportunity to submit comments regarding the questions presented by the agency. To that end, AMI representatives would be pleased to meet with the agency to assist in addressing the issues raised.

³ To help ensure compliance there should be a provision imposing a penalty for removing, tampering with, or causing the removal of a means of identification, except at the time of slaughter or as otherwise permitted by USDA.

If you have any questions regarding these comments or anything else regarding this matter, please contact me.

Sincerely,

A handwritten signature in black ink, appearing to read 'Mark Dopp', with a long horizontal flourish extending to the right.

Mark Dopp
Senior Vice President, Regulatory
Affairs and General Counsel

Cc: J. Patrick Boyle
Jim Hodges
Janet Riley
Mike Brown
Lynn Morrisette